

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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October 18, 1994

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OCT 18 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

The Honorable Tim Johnson
Member of Congress
2438 Rayburn House Office Building
U.S. House of Representatives
Washington, D.C. 20515

DOCKET FILE COPY ORIGINAL

Dear Congressman Johnson:

This letter responds to your correspondence regarding charges on their telephone bill and relating to billing of information services provided on 800 numbers.

The Telephone Disclosure and Dispute Resolution Act (TDDRA) was enacted by Congress in 1992 and required both the Federal Communications Commission and the Federal Trade Commission (FTC) to adopt rules governing the provision of pay-per-call services. Under the TDDRA, the FCC has jurisdiction over the telecommunications carriers involved in the transmission and billing of the telephone calls, while the Federal Trade Commission has jurisdiction over the information service companies themselves.

The TDDRA generally required pay-per-call services to be provided on 900 telephone numbers and generally prohibited the provision of these services on 800 numbers, except in instances where the caller has entered into a presubscription agreement or comparable arrangement with the information service provider. Pursuant to the Commission's rules, which became effective on September 24, 1993, a presubscription agreement entails a formal contractual understanding whereby the consumer is provided clearly and conspicuously all terms and conditions associated with the use of the service and affirmatively agrees to abide by them.

The Commission has received numerous complaints similar to those described by your constituent. These complaints are processed by the Enforcement Division of the Common Carrier Bureau by serving a copy of the complaint upon the telecommunication carriers involved, who must generally respond in writing within 30 days. Beyond reviewing these

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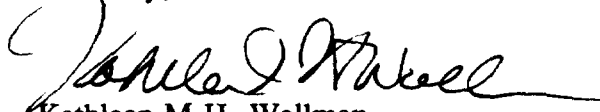
The Honorable Tim Johnson
Page 2

complaints and pursuing appropriate action to resolve them, the Commission has undertaken several efforts. First, Common Carrier Bureau staff has met with the carriers that provide the billing service for calls to 800 numbers as well as interexchange carriers who provide the 800 number transport to emphasize their obligations under the TDDRA and the rules of the Commission. Secondly, because the increase in the number of complaints has been so significant, we have started an investigation of these practices, with special focus on whether any companies have attempted to evade or violate our rules. Additionally, as part of the effort to make clear the carriers' responsibilities under the law, the Common Carrier Bureau has recently issued a ruling holding that the information provider's receipt of the originating telephone number, a practice that was serving as the premise of some charges, does not in itself constitute a presubscription agreement.

Moreover, on August 2, 1994, the Commission instituted a Notice of Proposed Rulemaking seeking to strengthen Commission rules to prevent abusive and unlawful practices under the TDDRA. Specifically, the Commission has sought public comment on a proposal to require that a presubscription agreement be established only with a legally competent individual and executed in writing, and that common carriers obtain evidence of the written agreement before issuing a telephone bill that contains charges for presubscribed information services. Under the proposed rules, these telephone bills could be addressed only to the individual who actually entered into the presubscription arrangement, not to the person or company whose telephone was used to place the call. The Commission has tentatively concluded that this and other proposed changes would significantly assist in eliminating the source of many consumer complaints. Enclosed is a summary of the Commission's action in this regard.

We appreciate receiving your correspondence. Please call upon us if we can provide any additional information.

Sincerely,

A handwritten signature in dark ink, appearing to read "Kathleen M.H. Wallman", written in a cursive style.

Kathleen M.H. Wallman
Chief
Common Carrier Bureau

Enclosure

TIM JOHNSON
SOUTH DAKOTA

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July 19, 1994

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Reed Hundt
Chairman
Federal Communications Commission
Washington, DC 20554

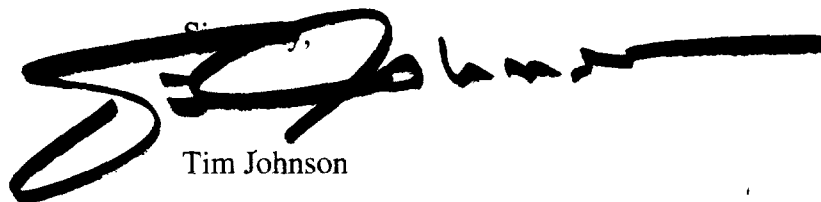
Dear Chairman Hundt:

I am writing in regard to the Federal Communication Commission's regulation of the 800 line industry under the "Telephone Disclosure and Dispute Resolution Act."

As you know, this act precludes people from being charged for 800 service. However, the enforcement division of the FCC confirmed that a loophole exists in this act which allows companies to charge callers for 800 service. Currently, a "pre-subscription" provision allows 800 services to require a caller's credit card number in order to proceed with the call. Certain 800 services are using the caller's telephone number, which is automatically registered with the company as a form of caller identification, as a form of "pre-subscription." I am alarmed at the proliferation of this questionable activity, especially by 800 numbers offering "porn," and I have been informed by the enforcement division that the FCC is currently investigating this matter.

I would appreciate being kept updated on the status of the FCC's investigation. Specifically, I would like to know if I could be of assistance in addressing this matter at a legislative level.

Thank you for your interest in this important issue, and please keep in touch.



Tim Johnson

TPJ:ldm

TIM JOHNSON
SOUTH DAKOTA

COMMITTEES

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INSULAR AFFAIRS

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July 19, 1994

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Reed Hundt
Chairman
Federal Communications Commission
Washington, DC 20554

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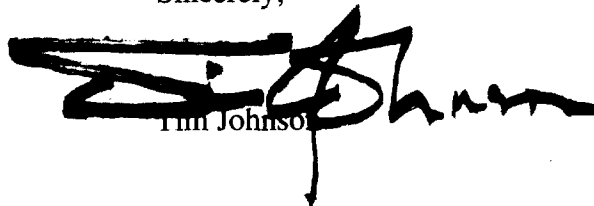
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Tim Johnson

TPJ:dm